

1 Bingham McCutchen LLP
 2 THOMAS E. KUHNLE (SBN 1041641)
 3 email: tom.kuhnle@bingham.com
 4 KRISTEN M. PEZONE (SBN 224057)
 5 email: kristen.pezone@bingham.com
 1900 University Avenue
 East Palo Alto, CA 94303
 Telephone: 650.849.4882
 Facsimile: 650.849.4800

6 Attorneys for Defendant
 7 BOSTON SCIENTIFIC CORPORATION

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11

DONALD MASTERS,

No. 5:07-cv-03792-HRL

12

Plaintiff,

DEFENDANT'S OBJECTION TO
 PLAINTIFF'S UNTIMELY DEMAND
 FOR JURY TRIAL

13

v.
 14 BOSTON SCIENTIFIC CORPORATION,
 15 BOSTON SCIENTIFIC CORPORATION 2000
 LONG TERM INCENTIVE PLAN and DOES 1-
 50,

16

Defendant.

17

18

Defendant Boston Scientific Corporation ("Boston Scientific") objects to Plaintiff

19

Donald Masters' ("Masters") Formal Demand for Jury Trial filed today. Pursuant to Rules 38(b) and 81(c) of the Federal Rules of Civil Procedure, Masters had 10 days after service of the notice of removal to file a demand for trial by jury. Boston Scientific served Masters with a notice of removal on July 24, 2007. Consequently, the jury demand filed today is untimely and Masters has waived his right to a jury trial. *See* Fed. R. Civ. Proc. 38(d), 81(c).

20

21

22

23

A/72220218.1/0088579-0000326656

1 DATED: September 20, 2007

Bingham McCutchen LLP

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

By: 

Kristen M. Pezone

Attorneys for Defendant

BOSTON SCIENTIFIC CORPORATION